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10/817,169	04/02/2004	Michael Bienvenu	031850/272210	2727

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EXAMINER
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WASHBURN, DOUGLAS N

ART UNIT	PAPER NUMBER
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2863

DATE MAILED: 12/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/817,169

Applicant(s)

BIENVENU ET AL.

Examiner

Douglas N. Washburn

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 29 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7, 9, 12-15, 17-23, 25, 27-29, 31-38, 40 and 42 is/are rejected.
- 7) ☒ Claim(s) 8, 10, 11, 16, 24, 26, 30, 39 and 41 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 April 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1 In view of the appeal brief filed on 29 August 2006, PROSECUTION IS HEREBY REOPENED. A new grounds of rejection is set forth below.

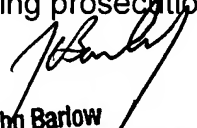
To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

John Barlow.

  
John Barlow  
Supervisory Patent Examiner  
Technology Center 2800

### ***Response to Arguments***

2 Applicant's arguments with respect to claims 1-7, 9, 14, 15, 17-23, 25, 28, 31-38, 40 and 42 have been considered but are moot in view of the new grounds of rejection.

The indicated allowability of claims 12, 13 and 27 is withdrawn in view of the newly discovered reference to a plurality of functions. Rejections based on the newly cited reference follow.

***Claim Objections***

3 Claim 20 is objected to because of the following informalities:

Claim 20 recites, in part, "A method according to Claim 18 wherein the communication element comprises a wire element, and the method further comprises removably engaging the wire element with at least one of the computer device and the measuring device such that the wire **elements** extends and is connected between the computer device and the measuring device";

Examiner suggests "A method according to Claim 18 wherein the communication element comprises a wire element, and the method further comprises removably engaging the wire element with at least one of the computer device and the measuring device such that the wire **element** extends and is connected between the computer device and the measuring device".

Correction is required.

***Claim Rejections - 35 USC § 102***

4 The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 12-15, 18, 19, 27-29, 32 and 33 are rejected under 35 U.S.C. 102(b) as being anticipated by Nazarian et al. (US 5,614,670) (Hereafter referred to as Nazarian).

Nazarian teaches:

A measuring device (seismic pavement analyzer (SPA); column 6, lines 7 and 8) for selectively and directly measuring the property of the paving-related material (column 6, lines 40-44) in regard to claim 1;

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A computer device (computer; column 22, line 24; figure 1, element 24) capable of executing a software program product (data acquisition software; column 28, line 31) and communicating with the measuring device (column 30, lines 22-27), the computer device being configured to direct the measuring device to measure the property of the paving-related material (column 6, lines 27 and 28) according to a parameter determined by the software program product (column 30, lines 33-34), and to receive data comprising the measured property of the paving-related material from the measuring device (column 30, lines 52-54) in regard to claim 1;

A communication element (control line; column 22, line 26; figure 1, element 34) operably engaged between the measuring device and the computer device (figure 1, element 34) so as to allow communication therebetween such that the measuring device directly measures the property of the paving-related material in response to the direction of the computer device received via the communication element (column 22, lines 23-27) the communication element being configured to allow the computer device to be spaced apart from the measuring device (figure 1, elements 24, 34 and 40), thereby allowing the computer device to be prepared, to include the parameter and to manipulate the data, in spaced apart relation with respect to the measuring device (column 6, lines 22-26) in regard to claim 1;

The communication element comprises a wire element (cable; column 11, line 21) extending and connected between the computer device and the measuring device (figure 1 elements 24, 34 and 40) in regard to claim 2;

The measuring device is configured to be capable of performing a plurality of functions (column 27, lines 20-30) and the software program product is configured to be capable of directing the measuring device to perform a combination of functions selected from the plurality of functions (column 28, lines 38-45) in regard to claim 12;

At least one function in the plurality of functions is configured to determine the parameter used to measure the property of the material (column 28, lines 47-55) in regard to claim 13;

The measuring device is further configured to directly measure at least one of a density (column 29, lines 2-6), a density-related parameter, and a moisture content of at least one of a soil, an aggregate, and an asphalt paving mix in regard to claim 14;

The measuring device is selected from the group consisting of a nuclear density gauge, a nuclear moisture gauge, a seismic pavement analyzer (column 6, lines 7 and 8), a stiffness gauge, a falling weight deflectometer, a ground penetrating radar device, a radio Frequency device, an electromagnetic device, a microwave device, a surface roughness measuring device, a pavement temperature sensor, a pavement temperature measuring device, and combinations thereof in regard to claim 15;

Preparing a computer device to execute a software program product for directing a measuring device to directly measure the property of the paving-related material, according to a parameter determined by the software program product, and to receive data comprising the measured property of the paving-related material from the measuring device (column 28, lines 34-38) in regard to claim 18;

Executing the software program product (column 30, line 10 through column 32, line 5) in regard to claim 18;

Communicating the executed software program product from the computer device to the measuring device (column 30, line 24-27) via a communication element operably engaged therebetween (figure 1, element 34) such that the measuring device directly measures the property of the paving-related material in response thereto (column 30, line 52-56), the communication element being configured to allow the computer device to be spaced apart from the measuring device (figure 1, elements 24, 34 and 40) such that the computer device can be prepared, in spaced apart relation with respect to the measuring device, to include the parameter and to manipulate the data (column 30, line 10 through column 32, line 5) in regard to claim 18;

Communicating the data comprising the measured property of the paving-related material from the measuring device to the computer device via the communication element (column 30, lines 52-56) in regard to claim 19;

The measuring device is configured to be capable of performing a plurality of functions and preparing the computer device to execute the software (column 27, lines 20-30) in regard to claim 27;

Preparing the computer device to execute the software program product, the software program product being capable of directing the measuring device to perform a combination of functions selected from the plurality of functions (column 31, lines 43-48) and at least one function in the plurality of functions being configured to determine the parameter used to measure the property of the material (column 31, lines 49-51) in regard to claim 27;

Preparing a computer device to execute a software program product (column 28, lines 32-38) for directing a measuring device to directly measure at least one of a density (column 29, lines 2-6), a density-related parameter, and a moisture content of at least one era soil, an aggregate, and an asphalt paving mix in regard to claim 28;

Preparing a computer device to execute a software program product for directing a measuring device comprising at least one of a nuclear density gauge, a nuclear moisture gauge, a seismic pavement analyzer (column 6, lines 7 and 8), a stiffness gauge, a falling weight deflectometer, a ground penetrating radar device, a radio frequency device, an electromagnetic device, a microwave device, a surface roughness measuring device, a pavement temperature sensor, a pavement temperature measuring device, to directly measure the property of the paving-related material in regard to claim 29;

A computer device capable of executing a software program product (computer; column 22, line 23) and communicating with the measuring device, the computer device being configured to direct the measuring device to directly measure the property of the paving-related material according to a parameter determined by the software program product, and to receive data comprising the measured property of the paving-related material from the measuring device (column 22; lines 26-28) in regard to claim 32;

A communication element operably engaged between the measuring device and the computer device so as to allow communication therebetween (control line; column 22, line 26; figure 1, element 34) such that the measuring device directly measures the property of the paving-related material in response to the direction of the computer device via the communication element (column 30, line 52-56), the communication element being configured to allow the computer device to be spaced apart from the measuring device, thereby allowing the computer device to be prepared, to include the parameter and to manipulate the data, in spaced apart relation with respect to the measuring device (figure 1, elements 24, 34 and 40) in regard to claim 32;

And the communication element comprises a wire element (cable; column 11, line 21) extending and connected between the computer device and the measuring device (figure 1, elements 24, 34 and 40) in regard to claim 33.



***Claim Rejections - 35 USC § 103***

5 The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3-7, 9, 17, 20-23, 25, 31, 34-38, 40 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nazarian in view of Jaselskis et al. (US 5,952,561) (Hereafter referred to as Jaselskis) and further in view of Densham et al. (US 5,132,871) (Hereafter referred to as Densham).

Nazarian teaches:

A measuring device (seismic pavement analyzer (SPA); column 6, lines 7 and 8) for selectively and directly measuring the property of the paving-related material (column 6, lines 40-44) in regard to claim 1;

A computer device (computer; column 22, line 24; figure 1, element 24) capable of executing a software program product (data acquisition software; column 28, line 31) and communicating with the measuring device (column 30, lines 22-27), the computer device being configured to direct the measuring device to measure the property of the paving-related material (column 6, lines 27 and 28) according to a parameter determined by the software program product (column 30, lines 33-34), and to receive data comprising the measured property of the paving-related material from the measuring device (column 30, lines 52-54) in regard to claim 1;

A communication element (control line; column 22, line 26; figure 1, element 34) operably engaged between the measuring device and the computer device (figure 1, element 34) so as to allow communication therebetween such that the measuring device directly measures the property of the paving-related material in response to the direction of the computer device received via the communication element (column 22, lines 23-27) the communication element being configured to allow the computer device to be spaced apart from the measuring device (figure 1, elements 24, 34 and 40), thereby allowing the computer device to be prepared, to include the parameter and to manipulate the data, in spaced apart relation with respect to the measuring device (column 6, lines 22-26) in regard to claim 1;

The communication element comprises a wire element (cable; column 11, line 21) extending and connected between the computer device and the measuring device (figure 1 elements 24, 34 and 40) in regard to claim 2;

The measuring device is configured to be capable of performing a plurality of functions (column 27, lines 20-30) and the software program product is configured to be capable of directing the measuring device to perform a combination of functions selected from the plurality of functions (column 28, lines 38-45) in regard to claim 12;

At least one function in the plurality of functions is configured to determine the parameter used to measure the property of the material (column 28, lines 47-55) in regard to claim 13;

The measuring device is further configured to directly measure at least one of a density (column 29, lines 2-6), a density-related parameter, and a moisture content of at least one of a soil, an aggregate, and an asphalt paving mix in regard to claim 14;

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The measuring device is selected from the group consisting of a nuclear density gauge, a nuclear moisture gauge, a seismic pavement analyzer (column 6, lines 7 and 8), a stiffness gauge, a falling weight deflectometer, a ground penetrating radar device, a radio Frequency device, an electromagnetic device, a microwave device, a surface roughness measuring device, a pavement temperature sensor, a pavement temperature measuring device, and combinations thereof in regard to claim 15;

Preparing a computer device to execute a software program product for directing a measuring device to directly measure the property of the paving-related material, according to a parameter determined by the software program product, and to receive data comprising the measured property of the paving-related material from the measuring device (column 28, lines 34-38) in regard to claim 18;

Executing the software program product (column 30, line 10 through column 32, line 5) in regard to claim 18;

Communicating the executed software program product from the computer device to the measuring device (column 30, line 24-27) via a communication element operably engaged therebetween (figure 1, element 34) such that the measuring device directly measures the property of the paving-related material in response thereto (column 30, line 52-56), the communication element being configured to allow the computer device to be spaced apart from the measuring device (figure 1, elements 24, 34 and 40) such that the computer device can be prepared, in spaced apart relation with respect to the measuring device, to include the parameter and to manipulate the data (column 30, line 10 through column 32, line 5) in regard to claim 18;

Communicating the data comprising the measured property of the paving-related material from the measuring device to the computer device via the communication element (column 30, lines 52-56) in regard to claim 19;

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The measuring device is configured to be capable of performing a plurality of functions and preparing the computer device to execute the software (column 27, lines 20-30) in regard to claim 27;

Preparing the computer device to execute the software program product, the software program product being capable of directing the measuring device to perform a combination of functions selected from the plurality of functions (column 31, lines 43-48) and at least one function in the plurality of functions being configured to determine the parameter used to measure the property of the material (column 31, lines 49-51) in regard to claim 27;

Preparing a computer device to execute a software program product (column 28, lines 32-38) for directing a measuring device to directly measure at least one of a density (column 29, lines 2-6), a density-related parameter, and a moisture content of at least one era soil, an aggregate, and an asphalt paving mix in regard to claim 28;

Preparing a computer device to execute a software program product for directing a measuring device comprising at least one of a nuclear density gauge, a nuclear moisture gauge, a seismic pavement analyzer (column 6, lines 7 and 8), a stiffness gauge, a falling weight deflectometer, a ground penetrating radar device, a radio frequency device, an electromagnetic device, a microwave device, a surface roughness measuring device, a pavement temperature sensor, a pavement temperature measuring device, to directly measure the property of the paving-related material in regard to claim 29;

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A computer device capable of executing a software program product (computer; column 22, line 23) and communicating with the measuring device, the computer device being configured to direct the measuring device to directly measure the property of the paving-related material according to a parameter determined by the software program product, and to receive data comprising the measured property of the paving-related material from the measuring device (column 22; lines 26-28) in regard to claim 32;

A communication element operably engaged between the measuring device and the computer device so as to allow communication therebetween (control line; column 22, line 26; figure 1, element 34) such that the measuring device directly measures the property of the paving-related material in response to the direction of the computer device via the communication element (column 30, line 52-56), the communication element being configured to allow the computer device to be spaced apart from the measuring device, thereby allowing the computer device to be prepared, to include the parameter and to manipulate the data, in spaced apart relation with respect to the measuring device (figure 1, elements 24, 34 and 40) in regard to claim 32;

And the communication element comprises a wire element (cable; column 11, line 21) extending and connected between the computer device and the measuring device (figure 1, elements 24, 34 and 40) in regard to claim 33.

Nazarian is silent regarding:

The wire element is further configured to be removably engaged with at least one of the computer device and the measuring device in regard to claim 3;

The communication element further comprises a connector having a first portion configured to be removably engaged with a second portion in regard to claim 4;

The first portion is engaged with the computer device and the second portion is engaged with the measuring device in regard to claim 5;

The first portion is engaged with the computer device and the second portion is engaged with a wire element extending and connected to the measuring device in regard to claim 6;

The first portion is engaged with the measuring device and the second portion is engaged with a wire element extending and connected to the computer device in regard to claim 7;

The computer device is further configured to associate a time and date stamp with the data when the property is measured in regard to claim 17;

The communication element comprises a wire element, and the method further comprises removably engaging the wire element with at least one of the computer device and the measuring device such that the wire element extends and is connected between the computer device and the measuring device in regard to claim 20;

The communication element comprises a connector having a first portion engaged with the computer device and a second portion engaged with the measuring device, and the method further comprises removably engaging the first portion with the second portion in regard to claim 21;

The communication element comprises a connector having a first portion engaged with the computer device and a second portion engaged with a wire element extending, and connected to the measuring device, and the method further comprises removably engaging the first portion with the second portion in regard to claim 22;

The communication element comprises a connector having a first portion engaged with the measuring device and a second portion engaged with a wire element extending and connected to the computer device, and the method further comprises removably engaging the first portion with the second portion in regard to claim 23;

Determining a location of at least one of the measuring device and the computer device with a locating device operably engaged with at least one of the measuring device and the computer device in regard to claim 25;

Associating a time and date stamp with the data when the property is measured in regard to claim 31;

The wire element is further configured to be removably engaged with at least one of the computer device and the measuring device in regard to claim 34;

The communication element further comprises a connector having a first portion configured to be removably engaged with a second portion in regard to claim 35;

The first portion is engaged with the computer device and the second portion engaged with the measuring device in regard to claim 36;

The first portion is engaged with the computer device and the second portion is engaged with a wire element extending and connected to the measuring device in regard to claim 37;

The first portion is engaged with the measuring device and the second portion is engaged with a wire element extending and connected to the computer device in regard to claim 38;

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A locating device operably engaged with at least one of the measuring device, and the computer device, the locating device being configured to determine a location of the at least one of the measuring device and the computer device in regard to claim 40;

And the computer device is further configured to associate a time and date stamp with the data while the property is measured in regard to claim 42.

Jaselskis teaches:

A locating device operably engaged with at least one of a measuring device and a computer device, the locating device being configured to determine a location of at least one of the measuring device and the computer device (gps; column 12, lines 17-19) in regard to claim 9;

A computer device is configured to associate a time and date stamp with data when a property is measured (gps; column 12, lines 17-19) in regard to claim 17;

Determining a location of at least one of a measuring device and a computer device with a locating device operably engaged with at least one of the measuring device and the computer device (gps; column 12, lines 17-19) in regard to claim 25;

A computer device is configured to associate a time and date stamp with data when a property is measured (gps; column 12, lines 17-19) in regard to claim 31;

A locating device (gps; column 12, lines 17-19) operably engaged with at least one of a measuring device and a computer device, the locating device being configured to determine a location of the at least one of the measuring device and the computer device in regard to claim 40.

And a computer device is configured to associate a time and date stamp with data when a property is measured (gps; column 12, lines 17-19) in regard to claim 42.



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Densham teaches:

A wire element (smart connector and cable; column 3, line 59) configured to be removably engaged with at least one of a computer device and a measuring device (figure 2) in regard to claims 3 and 34;

A communication element comprises a connector having a first portion configured to be removably engaged with a second portion (figure 5) in regard to claims 4 and 35;

A first portion is engaged with a computer device and a second portion is engaged with a measuring device (figure 5) in regard to claims 5 and 36;

A first portion is engaged with a computer device and a second portion is engaged with a wire element extending and connected to a measuring device (figure 5) in regard to claims 6 and 37;

A first portion is engaged with a measuring device and a second portion is engaged with a wire element extending and connected to a computer device (figure 5) in regard to claims 7 and 38.

A communication element comprises a wire element, and the method comprises removably engaging the wire element with at least one of a computer device and a measuring device such that the wire elements extends and is connected between the computer device and the measuring device (figure 5) in regard to claim 20;

A communication element comprises a connector having a first portion engaged with a computer device and a second portion engaged with a measuring device, and the method comprises removably engaging the first portion with the second portion (figure 5) in regard to claim 21;

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A communication element comprises a connector having a first portion engaged with a computer device and a second portion engaged with a wire element extending and connected to a measuring device, and the method comprises removably engaging the first portion with the second portion (figure 5) in regard to claim 22;

And a communication element comprises a connector having a first portion engaged with a measuring device and a second portion engaged with a wire element extending and connected to a computer device, and the method comprises removably engaging the first portion with the second portion (figure 5) in regard to claim 23.

Regarding claims 3-7, 20-23 and 34-38, it would have been obvious to one skilled in the art at the time of the instant invention to modify the teaching of Nazarian of a communication element operably engaged between the measuring device and the computer device so as to allow communication therebetween such that the measuring device directly measures the property of the paving-related material in response to the direction of the computer device received via the communication element the communication element being configured to allow the computer device to be spaced apart from the measuring device, thereby allowing the computer device to be prepared, to include the parameter and to manipulate the data, in spaced apart relation with respect to the measuring device with the teachings of Jaselskis of a locating device operably engaged with at least one of a measuring device and a computer device, the locating device being configured to determine a location of at least one of the measuring device and the computer device and a computer device is configured to associate a time and date stamp with data when a property is measured with the teaching of Densham of a smart connector and cable because a cable would have provided a communication link between a portable computer and a peripheral unit (measuring device).

***Allowable Subject Matter***

6 Claims 8, 10, 11, 16, 24, 26, 30, 39 and 41 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is an examiner's statement of reasons for allowance:

Claim 8 recites, in part, "A wireless transceiver operably engaged with each of the computer device and the measuring device". This feature in combination with the remaining claimed structure avoids the prior art of record.

Claim 10 recites, in part, "a central computing system spaced apart from the computer device and the measuring device and configured to be capable of communicating the data with the computer device". This feature in combination with the remaining claimed structure avoids the prior art of record.

Claim 11 recites, in part, "A central computing system is configured to communicate with the computer device so as to modify the software program product". This feature in combination with the remaining claimed structure avoids the prior art of record.

Claim 16 recites, in part, "the computer device is further configured to direct the data to a third party computer device without allowing the data to be modified". This feature in combination with the remaining claimed structure avoids the prior art of record.

Claim 24 recites, in part, "A wireless transceiver operably engaged with each of the computer device and the measuring device, and the method further establishing communication between the wireless transceivers so as to allow the computer device to communicate with the measuring device". This feature in combination with the remaining claimed structure avoids the prior art of record.

Claim 26 recites, in part, "communicating at least one of the data and a modification of the software program product between the computer device and a central computing system spaced apart from the computer device and the measuring device". This feature in combination with the remaining claimed structure avoids the prior art of record.

Claim 30 recites, in part, "directing the data from the computer device to a third party computer device without allowing the data to be modified ". This feature in combination with the remaining claimed structure avoids the prior art of record.

Claim 39 recites, in part, "a communication element comprises a wireless transceiver operably engaged with each of the computer device and the measuring device". This feature in combination with the remaining claimed structure avoids the prior art of record.

Claim 41 recites, in part, "the computer device is further configured to direct the data to a third party computer device without allowing the data to be modified". This feature in combination with the remaining claimed structure avoids the prior art of record.

It is these limitations, which are not found, taught or suggested in the prior art of record, and are recited in the claimed combination that makes these claims allowable over the prior art.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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**Conclusion**

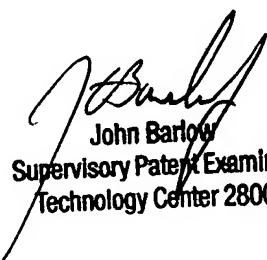
7 Any inquiry concerning this communication or earlier communications from the examiner should be directed to Douglas N. Washburn whose telephone number is (571) 272-2284. The examiner can normally be reached on Monday through Thursday 6:30 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John E. Barlow can be reached on (571) 272-2269. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

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